

MORAL AND SOCIAL ASPECTS OF ILLEGITIMACY IN HUNGARY

C. TOWNLEY-FULLAM

I

FOR a truer understanding of the phenomena which distinguish Hungary, recourse should always be had to one or other of the two main principles which together form the keystone of her social fabric:—the maintenance externally of State independence; the maintenance, internally, of Magyar hegemony.

Rich as Hungary undoubtedly is in her special formulæ of public law and historic associations, she is yet the exact counterpart of England. Her jurisprudence has a tincture of that of Rome, but is mainly independent of it. Her State-conceptions remain aspirations simply because of a certain incompatibility between the Turanian Dominant and the federal tendencies of Aryanism. Her institutions, originally purely Saxon, early took the impress of semi-feudalism and ecclesiasticism. Half of the land is still divided between the Church and the oligarchy. And of this half the bulk, the greater estates, are *fidei commissa*.

Politically, Hungary counts for nothing outside the Dualism. This remarkable structure, which violates the first principles of federalism, is absolutely *sui generis*. Its effect is to free her in great measure from the onus of international responsibility and leave her at liberty to concentrate upon internal development. Profoundly distrustful of her own native genius, she has accustomed herself to look for inspiration to the West, an indiscretion which, though it has resulted in the acclimatization of many useless institutions, has nevertheless served to direct her attention to a field of labor which she is steadily making her own. The student and the expert are now fairly agreed that in all those questions which properly belong to the science of sociology:—hygiene, pure food, care of children and correction of the *status* of Illegitimacy—Hungary leads the world.

II

The Hungarian child belongs to the State. For all practical purposes this far-sighted organism acknowledges to the full its paramount duty to the nation of to-morrow. This semi-control, which extends to almost all conceivable departments, lasts, in general, until the child attains its legal majority, that is to say the age of 24. If, even then, he shows any disposition to permanent extravagance, he may, at the request of his natural or other guardian, be placed under supervision of the Court of Wards. In this regard men of 30 may be still minors at law.

There is something in the sturdy Magyar character that cries out against demonstrable injustice to the helpless. The State is not inclined to grandmotherly legislation. It never seeks to help those who can help themselves; but it never fails to enforce its care upon those unable to sustain physical or economic competition.

III

Illegitimacy may be said to represent in general the margin of victory of natural proclivity plus economic impulse, over the deterrent and restraining influence of public opinion; public opinion itself being the outcome of the combined forces of social custom, dogma, culture and primal necessity.

This victory is represented in Hungary by one-tenth of the total births; in Budapest by anything between one-third and one-quarter.

It is obvious that sheer bestial immorality, as we understand the term, is powerless to account for such colossal proportions. Indeed, as the result of long inquiry and patient comparison of statistical data, I am forced to the conclusions (1) that a combination of historic, political and economic causes has operated to produce a state of public opinion not rigorously censorious in this regard; (2) that this public opinion finds expression in certain legislative correctives to the general consequences of a breach of one of the most stable amongst the canons of a shifting morality.

The natural effect of such quasi-condonation is to remove the phenomenon from the plane of morality and place it in the cate-

gory of social irregularities. To this encouragement must be added one of the strongest factors in the shaping of human conduct—the force of example.

Men, except Bernard Shaw, hate to appear singular. The fear of acting contrary to the received standard kept thousands of Englishmen under the Commonwealth in paths totally at variance with their natural temperament. Within one year of the Restoration the dread of being labelled Puritanical forced thousands into debaucheries and incontinence equally foreign to their personal tastes.

Before analyzing this phase of public opinion, it may be proper to inquire into the historic and political causes which produced it.

Amongst the many expedients of rulers for the resettlement of depopulated lands, the one most in request amongst Hungarian sovereigns was wholesale colonization from foreign, neighboring countries. These colonists were guaranteed a certain form of autonomy, religious tolerance—as long as it lasted—and material privileges to which even the natural-born Magyar could not aspire. Thus, there grew up within the State a series of corporations answering as nearly as possible to the Hansa conception. It was analogous to the settlement of Brazil by the German, but without the guarantee of a Monroe Doctrine. Though the immediate purpose was served, its legacy was the challenge to Magyar hegemony which lies at the root of the nationality question of to-day.

There came a time, however, when the perennial need of the perpetually wasted land for citizens could no longer be satisfied by these primitive means. Hun, Suabian, Saxon and Serb had followed one another in rapid succession as the waves of Tartar and Turkish hordes receded. The supply was exhausted. Europe herself, as the result of the kindly ministrations of Tilly and the good offices of the Inquisition, lay devastated and depopulated. Yet had there been any surplus population in any quarter it would have been colossal folly to imperil the racial incidence of the land by further complicating, if that were possible, the chaos of nations and creeds. In one quarter there was, indeed, promise. But any addition to the Slav element was

barred by a three-fold objection. He would disturb the actual balance; he would react unfavorably upon the German, between whom and himself there is, was and is to be strife immemorial, and eternal; he was, at best, an undesirable immigrant, if only for the reason that his introduction meant not a cutting off from his racial stem, but a mere geographical extension of his frontier.

Such was the state of affairs in the time of Maria Theresa. The Apostolic Queen, having tried her hand at colonization, determined to recruit her faithful Hungarians from Hungary. From motives of high policy, dictated by absolute necessity, she provided a solution which broke the canon and saved the State. Whenever it was reported that the demands of the army in any particular district had exhausted its manhood, a regiment of Hussars was quartered on the territory. The moralist shook his head; the statesman nodded approval; the population increased.

This policy was followed by her son Joseph II, with the same result.

The second great danger which threatened the Magyar was the rising prosperity of America. Wholesale emigration began to produce a steady drain upon her manhood. The proportion of sex was thus violently disturbed and the disturbance increased in geometrical ratio. What Buckle said of Europe, "The Crusades, by diminishing the proportion of men to women in Europe increased licentiousness," may be said of Hungary. So serious became the problem that a law was passed making it a penal offence for any person connected with a shipping, emigration or the like agency, to induce people to leave the land.

The third danger was the appearance amongst the Germans in the Dunántúl and the South-east of a now widespread movement, known as the "*Egyke*," to restrict the family to one child.

The accumulated force of these dangers rendered it almost certain that public opinion should not discriminate too nicely. The example of the Government had almost stamped illegitimacy with royal approval, not *per se*, but as contributing to the wealth of the State. Was it for the ordinary man in the street to begin tub-thumping or, like the Jones Lycurgus B. of Bret Harte, "draw the weapon of Bowie to prove the marriage sanctity?"

There have been other solvents quite as powerful to weaken this idea of sanctity: as the abolition for all purposes of state of the religious marriage and the facility of divorce. On the side of necessity there is the provision that no one liable to military service may marry until he has discharged that duty. Suppose then a conscript of a village who has already made his choice. He debates in the light of his own parochial wits whether he shall leave this maiden to be for three years the spoil of others and the sport of chance, and comes to a natural but uncanonical decision. When he is free he will marry his love: in the meantime she carries his legacy, which is often a *more sacred assurance than a priest could extract at the altar*. Yet that child is illegitimate *according to the statistics*. The soldier returns to the plough and marries the girl. See if you can penetrate that bucolic crust with legal distinctions and the maze of social usage. I have tried it; have been met with a fat laugh, a stare and hospitable *force majeure* towards last year's vintage. Such a man might say with Marcus Aurelius, "I do what my nature wills me to do."

There are yet other phases. There are, not only in the capital, but all over the country, as in Paris, thousands of men and women who gravitate together in an irregular but perfectly orderly and honorable union. These are openly sought by advertisement in the public journals. In the majority of cases the unions last for the term of natural life. The man did not choose to pay the registrar: his children are consequently illegitimate. But that he can repair at any moment. What—to him—is the difference? The result of any marked incompatibility is separation without the fees of the divorce court. But such incompatibility usually becomes apparent before any serious harm is done; for men who have fairly large families are content to bear with certain inconveniences for the sake of common ties sanctified, at least, by usage. "I have three children," said one of these women to me, "and I have to behave myself." At any moment the man may go to the civil authorities and acknowledge the paternity of a child. There is a marriage and father: the law is satisfied and the child becomes legitimate. Or a man may go through the form of adopting his own or any

other child: thenceforth it is legitimate. Or, again, a partner to one of these irregular unions may be called to the colors and sent out to be shot by the "children of nature" in Bosnia. If the woman can show ever so faintly any intention on the man's part to regularize this union, the children may be legitimized by the grace of the Sovereign, though the man lies dead miles away in the mountains.

Illegitimate children are in most civilized countries cut off from natural inheritance, that is, the succession to a share or all of a property not disposable by will. Not so in Hungary. If a woman have an illegitimate child, and afterwards, in the regular course of nature, bear three more children in wedlock, the first child, even though the husband refuse to assist in its legitimization, must succeed to its share in the property of the mother. So far the law acknowledges its *natural* rights.

In another direction the law goes further. It provides lying-in institutions for everybody and asks no questions. And, lest the possession of the child should prove so inconvenient to the mother that she might be tempted to leave it promiscuously about, or even carelessly and without intention endanger its life, institutions are provided which relieve her of all responsibility. Often that little life is of more potential value to the State than actual value to the mother. And the State runs no risks.

The timid shrinking mother—for these mothers are no more brazen moral lepers than was that noble lady of *The Scarlet Letter*,—need not publish her trouble, nor can she be subjected to the callous inquisition of bureaucrats. In a little, sheltered corner of these institutions, there is a place in which she may deposit the infant, and then go her way. There is not a dog to intrude upon the agony of farewell, not a sparrow to carry a whisper of her shame. The State is richer by a little soul and the sum of human misery has been lightened by a great renunciation.

In after years the mother, whose circumstances have improved, may seek to reclaim her child. She turns to a kindly and sympathetic official, but finds, perhaps, that he does not so easily give up the claims of the State. He earnestly urges upon her that the child is happy, well-fed, well-clothed and well-

attended and asks if the mother can do better. He is open to conviction but will not readily expose the little ward to dangers from which it has once been rescued. No petty considerations of "a charge upon the country" are allowed to stand in his way. For the State of Hungary does whatever its hands find to do very thoroughly indeed.

It may happen that a mother-to-be, with fear deep and real at her heart-strings, adventures out to make a furtive reconnaissance of the future home of her child yet unborn. Now although the primary object of this home is the care of children; although every hospital is wide open; although there are lying-in institutions by the score; the home looks with acquisitive eyes even upon this chance visitor. It does not like to let her go. It would rather she took up her quarters there, were delivered and nursed under the eye of its own staff, and that the little life should be assured *ab initio*. Poverty is not at all a *sine quâ non*. The child of an immoral woman, the child brought up in bad surroundings, may be "confiscated" by the State, though the mother be a Cræsus in her own right.

The strongest testimony to the real need of the State lying-in institutions is furnished by the general birth statistics. Of every two hundred illegitimate children brought into the world, 99 are born in institutions and 101 at home. Of the same number of children born in wedlock, 14 are born in institutions and 186 at home.

Undoubtedly the State has made itself a party to the extension of the normal disturbance of ethical values, by its choice of methods for recruiting the population in the old days, for combatting the disturbance of sex incidence produced by emigration, and lastly for restoring a balance which is threatened by the extension of the one-child system. To a certain extent it has educated public opinion, a process which to Western peoples must appear as something in the nature of a political phenomenon. Through its legislative acts, dictated though these have been by considerations of policy, it is as much responsible for the increase of illegitimacy from 7.20 per cent. in 1876 to 10 per cent. of recent years as are economic causes, the weakening of Church influence and the incalculable incidence of the many and complex

factors which sway human action. Through its administrative acts, it has reduced the practice of child-murder to manageable proportions.

Although criminal justice knows no set-off, Civil Law is generally subject to the corrective of Equity. In this case international public opinion, in weighing the services of Hungarian institutions to the common cause of mankind, will add to its verdict the rider, "but the country was not responsible for her actions."

Reverting for a moment to child-murder, I ought first to qualify the term. It is here employed not only in the sense of the indictable offence of wilfully doing away with human life, but in the broader aspect which includes carelessness, abortion, and the result of pure ignorance.

As to the first phase, no safeguard will avail against criminal intention; yet the proportion of murders has been sensibly reduced through the operation of the asylum system which, by providing a kind of loop-hole, weakens an intention rooted in economic necessity.

Simple carelessness is beyond the powers of gods and men.

Abortion, collusion between poorly-paid midwives and women anxious to escape consequences, tends to diminish rapidly. The only stable factor is the existence of a class of women who repudiate altogether the status of motherhood. For the others, State institutions provide a means of escape.

Murders arising from pure ignorance, constructive murders, might be illustrated by reference to certain economic usages common to most agricultural communities of the continent. The most salient of these is woman-labor. In the cities of Hungary, Slovak women are largely employed in the building trade as day-laborers: in Transylvania everybody works. In the provinces where the land is not rich and the yield small, it is imperative that men and women should share the work. At harvest an idle day would spell calamity. What then must be the effect of a confinement upon the family budget? And when the woman is able to stand alone what is to be done with the encumbrance? The woman goes out to work at three or four in the morning and remains in the fields as long as she can see. If left to itself

without food or at an age when, given food, the child would still lack the instinct to conserve the store, it would starve, choke or cry its life away. To prevent this it used to be the custom to deaden its consciousness by making it drunk on spirits or comatose with poppy. The child which could survive a course of treatment such as this would cease to be a child: it would be a miracle.

To cover this danger a new series of State institutions was devised, where children could be "left till called for." Here, again, there is no one to make nice inquiries as to compliance with the canon. All the long summer day the children, habited in strange and picturesque garb, roll happily amongst mud and sand, under the watchful eye of their good genius, the State. At night they sleep the deep, untroubled sleep of the tired well-fed. This is, indeed, accomplishment.

One important result of State activity should not be overlooked. The cumulative effect of humane laws, humane institutions and tolerant public opinion is that the statistics furnish, in the main, a true index to the existing state of affairs. It is not so ordinarily, and thus Hungary has made a great relative advance, and at the same time has established a newer standard.

This question of a standard has always troubled moralists. The Anglo-Saxon races have always tended to estimate the specific gravity of the morality of any given people comparatively to the norm of the Christian dispensation. On this showing, Hungary with a percentage of 9.7 of illegitimate births should be twice as depraved as England, where the percentage is 4.2. It is nothing of the sort. Until all contributory factors are weighed and assessed, until a common standard is admitted, until the unborn, the potential lives annually sacrificed to the Moloch of public opinion, can be numbered with the born, all idea of instituting comparisons upon moral bases is rigorously excluded.

The question had better be left as it is. He would indeed be a hardened peddler of statistics who should attempt to tabulate the abortive conceptions, the number of the infecund and the surreptitious removals which vitiate all attempts at accuracy.

The figures quoted offer half a truth. From half truths it is neither safe nor wise to draw conclusions.

The most striking commentaries upon this purely arbitrary value of birth statistics as an index, not particularly of morality, but of anything at all, are furnished by the conflict between civil and canon law, and the incongruous results of independent conceptions.*

The Jews constitute one-fourth of the population of the capital. The percentage of illegitimate births for the whole of the city is 27; for the Jews of Budapest 11. The noble tribute of Archbishop Temple in *Essays and Reviews*—"In chastity the Hebrew stood alone"—would thus be sufficiently vindicated even if the figures did not, as they do, malign Israel.

The Orthodox Jews of Hungary regard the civil law with a certain amount of veiled disrespect. Where it conflicts with the Mishnah and the Law of Moses they ignore it altogether. The civil law provides that a marriage may not be celebrated by a priest, pastor, what-not of any sect until it shall have been performed by the official designated by Parliament. The Law of Moses provides that the giving of a ring and the repetition of a simple formula in the presence of witnesses constitutes a marriage valid in Israel. Observe there is no contravention of the law, the presence of the Rabbi being unessential. Indeed the Rabbi is an official, not a priest. The Jew marries according to the Older Law. The State maintains that this is no marriage. The Jew does not care what the State maintains. The State says his children are illegitimate. The Mishnah says nothing. On this negative justification the Jew promptly legitimizes his children as fast as they appear and there the matter ends. But for all statistical purposes, all such children *are born out of wedlock*, whilst children born 15 years ago, in exactly the same circumstances but *before* the introduction of the civil marriage, are held to be legitimate! They are saved by the fact that the law is not retrospective.

The foregoing is a fairly accurate representation of affairs

* As to fecundity in general, the birth-rate in Hungary, until the appearance of the Egyke, or one-child system, was far in excess of that of any other progressive country. It is still, in a modified degree. From 1874 to 1898 it was 43 per thousand at home. In America, according to H. G. Wells' *Future of America*, the birth-rate amongst the Hungarian emigrants was 46 per thousand, the highest of any civilized people in the world.

as they now stand. But the student, with a sensitive digit upon the pulse of public opinion, detects a still more liberal tendency in the direction of ameliorating the condition of infants handicapped at birth. For a long time Hungarian jurists have been engaged upon the colossal work of codifying the civil law. The draft of 1902 was a mere *ballon d'essai*, but well served its purpose. Few dispositions excited more interest than that which touched upon illegitimacy. The amended section suggested that the subsequent marriage of the parents of illegitimate children should *ipso facto* constitute these latter legitimate. But opinion, since 1902, has advanced, is advancing. Many publicists are now in favor of the total abolition of the status of illegitimacy. They shrink from perpetuating a horrible injustice. They hold that the maxim "the sins of the fathers shall be visited upon the children," should not apply until it is definitely established that failure to register before a civil authority is a breach of any commandment other than the commandment of the State: and they may be right.

IV

Having dealt at large with the general aspect of this question, I append a brief sketch of the metropolitan incidence.

The percentage for the whole country oscillates between 9.5 and 10; that for Budapest remains fairly constant at 27. It is obvious, then, that this marked increase can be accounted for only through the operation of special causes. Of these the majority are common to all large capitals, but there are others local and peculiar to Budapest. The large permanent garrison; the difficulties of housing; the almost total absence of pastoral supervision which is such a feature of village life; high rents and charges; merciless taxation; the high proportion of the wastrel class which gravitates to every great city; general conditions of labor; a certain Bohemian improvidence,—these, apart altogether from certain proclivities inherent in mankind, are all instrumental in producing the phenomena disclosed in the abstracts appended.

TABLE I

BUDAPEST

ANALYSIS OF ILLEGITIMATE BIRTHS ACCORDING TO RELIGIOUS BELIEF OF PARENTS

Denomination	Percentage of total births, exclusive of still-born				National predominance
	1901	1902	1904	1906	
Roman Catholic.....	31.2	31.3	31.3	30.2	Magyar and German
Greek Catholic.....	44.4	46.1	48.8	48.1	Magyar
Greek Oriental Church....	19.2	25.4	24.7	29.5	Servian
Augsburg Confession.....	33.	32.1	31.6	30.8	Magyar, German and Slovak
Evangelical Reformed.....	30.5	30.4	30.7	29.9	Overwhelmingly Magyar
Unitarian.....	40.	56.2	48.6	40.4	" "
Jewish.....	12.7	12.5	12.1	11.7	" "
General percentage of total births (excluding still-born).....	27.5	27.5	27.5	26.8	

TABLE II

ANALYSIS OF ILLEGITIMATE BIRTHS ACCORDING TO NATIONALITY (1906)

Nationality	Legitimate	Illegitimate	Total	Per cent. of illegitimate
Magyar.....	14874	5339	20213	26.41
German.....	617	166	783	21.20
Slovak.....	313	171	484	35.33
Roumanian.....	7	6	13	46.15
Croat.....	4	11	15	73.33
Serb.....	12	2	14	14.29
Bohemian.....	60	13	73	17.81
Polish*.....	167	182	349	52.15
Various.....	36	14	50	28.
Unknown†.....	—	15	15	100.
Totals.....	16090	5919	22009

* The Poles are principally Jews of the orthodox sect. It is a Polish custom to marry the young men of 16 or 17 to maidens a year or so younger. As the marriages take place according to the Law of Moses, the provisions of the Code relating to military service and compulsory State marriage do not apply. It is conceivable that out of a total of 182 illegitimate births, not one is really so according to the Jewish law. And prior to the introduction of the Civil Marriage Law in 1895, all would have been considered legitimate.

† Obviously. If known they would have been classified.

TABLE III

MORE DETAILED ANALYSIS

Class of Parent	Total births	Legitimate	Illegitimate	Percentage of Illegitimacy
<i>Independent vocations:</i>				
Tailors and dressmakers.....	371	244	127	34.23
Miscellaneous industrials.....	607	459	148	24.38
Butchers.....	130	128	2	1.54
Shoemakers.....	197	187	10	5.07
<i>Assistants, etc.:</i>				
Tailors and dressmakers.....	571	378	193	33.80
Miscellaneous industrials.....	3042	2379	663	21.79
Shoemakers.....	463	388	75	16.20
Domestic servants*.....	2925	77	2848	97.37
Farm servants.....	14	11	3	21.43
Agricultural workers.....	182	168	14	7.59
County and municipal officials..	72	72
Day laborers.....	1012	602	410	40.51
Postal and public servants.....	286	281	5	1.75

* This high percentage is no criterion. Domestic service excludes the possibility of marriage. The real importance of the figures lies in the fact that this class of workers supplies 50 per cent. of the total number of illegitimate children. Undoubtedly servants are in a sense penalized by the nature and restrictions of their employment. Very many come from Transylvania and belong to the Unitarian Church. (See analysis of religions.) A belief in "inherited depravity" is part of the Unitarian creed!

AUSTRALIA'S NEW CAPITAL

HUGH HART LUSK

TWELVE years ago the first federal Parliament of the Australian Commonwealth met in Melbourne, and after twelve years of what has been called deliberation, but has really been struggle, the foundation stones of the new federal capital have just been laid. The event is interesting in itself, as being the second step in the visible building up of a young nation, but it has an additional interest in its bearing on the peculiar circumstances and conditions of the continent of the South Pacific.

Fourteen years ago it seemed very doubtful whether it would be possible to secure a federation of the six colonies that had divided, though, of course, in no sense occupied, the three million square miles of territory contained in the continent. There were three main causes of the difficulty. The first of these, and the most difficult to overcome, was found in the fact that the six colonies had grown up separately, had adopted their own policies and managed their own affairs so entirely without interference from the mother country or from one another that they could hardly bring themselves to give up any of the powers that appeared to have worked so well. The second difficulty was more indefinite, but perhaps no less influential. The first objection was not, of course, a new one. It had been felt keenly in the case of the American colonies at the end of the revolutionary war: it has probably been felt in the initial stages of every attempt to federate States that have enjoyed separate government of a popular kind in every part of the world. The second difficulty in Australia was really a negative one—it was the absence of a really strong reason in support of a change. The experience of the American States had convinced their people of the necessity of combination as the guarantee of safety: there was nothing to suggest its need for this purpose to the Australian people. It is not, perhaps, remarkable that it took several years and a great deal of argument to convince